



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1117]

Certain Full-Capture Arrow Rests and Components Thereof; Commission Determination Not to Review an Initial Determination Granting Complainant's Motion for Summary Determination of Violation of Section 337 by the Defaulting Respondents; Request for Written Submissions on Remedy, Bonding, and the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 13) of the presiding administrative law judge ("ALJ"), granting complainant's motion for summary determination of violation of section 337 of the Tariff Act of 1930, by the defaulting respondents. The Commission is requesting written submissions on remedy, bonding, and the public interest.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter

can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 11, 2018, based on a complaint filed on behalf of Bear Archery, Inc. ("Bear Archery") of Evansville, Indiana. 83 FR 27021-22 (June 11, 2018). The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain full-capture arrow rests and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,978,775 ("the '775 patent"). The Commission's notice of investigation named as respondents 2BULBS Technology Co. Ltd. of Jiangsu, China; Ningbo Linkboy Outdoor Sports Co., Ltd. of Zhejiang, China; Shenzhen Keepmyway Tech. Co., Ltd., Wenqing Zhang, Tingting Ye, and Tao Li, all of Guangdong, China; Zhengzhou IRQ Outdoor Sports Co., Ltd. of Henan, China; and Sean Yuan of Shandong, China. The Office of Unfair Import Investigations ("OUII") is also a party to the investigation. All respondents in the investigation have been found in default. *See* Order No. 9 (Oct. 29, 2018), *unreviewed* by Comm'n Notice (Nov. 26, 2018).

On October 26, 2018, Bear Archery moved for summary determination of violation of section 337 by the defaulting respondents and requested a general exclusion order ("GEO"). On November 21, OUII filed a response supporting the motion.

The ALJ issued the subject ID on March 19, 2019, granting the motion for summary determination and finding a violation of section 337 for the '775 patent. Specifically, the ALJ found that Bear Archery established infringement of claims 1-2 and 32 of the '775 patent with respect to each defaulting respondent's accused product by substantial, reliable, and probative evidence. The ALJ recommended that the Commission issue a GEO if it finds a violation of

section 337. No party petitioned for review of the subject ID.

Having examined the record of this investigation, the Commission has determined not to review the subject ID.

As noted above, all eight respondents were found in default. Section 337(g) and Commission Rule 210.16(c) authorize the Commission to issue relief against respondents found in default unless, after considering the public interest, it finds that such relief should not issue. Before the ALJ, Bear Archery sought a GEO under section 337(g)(2).

In connection with the final disposition of this investigation, the Commission may issue an order that could result in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

Complainant and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the patent expires, the HTSUS numbers under which the accused products are imported, and to supply the names of known importers of the products at issue in this investigation. The written submissions and proposed remedial orders must be filed no later than close of business on [two weeks from the date of this notice], 2019. Reply submissions must be filed no later than the close of business on [one week later], 2019. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary pursuant to Section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1117") in a

prominent place on the cover page and/or the first page. (*See Handbook on Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel¹, solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

¹ All contract personnel will sign appropriate nondisclosure agreements.

Issued: May 2, 2019.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2019-09396 Filed: 5/7/2019 8:45 am; Publication Date: 5/8/2019]